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Attorneys for Defendants Mark Elliot
Zuckerberg and Facebook, Inc.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

PAUL D. CEGLIA,

Plaintiff,

-against-

MARK ELLIOT ZUCKERBERG, Individually, and
FACEBOOK, INC.,

Defendants.

10 Civ. _____ ()

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1441(a) and 1446, defendants Mark Elliot Zuckerberg (“Zuckerberg”) and Facebook, Inc. (“Facebook”), by their attorneys, Orrick, Herrington & Sutcliffe LLP, hereby remove the above-captioned action entitled Paul D. Ceglia v. Mark Elliot Zuckerberg, et ano., Index No.38798/10, from the Supreme Court of the State of New York for the County of Allegany, where it is currently pending, to the United States District Court for the Western District of New York. As grounds for removal, Defendants allege as follows:

1. On or about June 30, 2010, Plaintiffs filed an Order to Show Cause, together with a Summons and Verified Complaint, in the Supreme Court of the State of New York for the County of Allegany naming Zuckerberg and Facebook as defendants. A copy of all papers and

pleadings served in this matter is attached hereto as Exhibits 1-3, as identified in the appended index.

2. Facebook was served with the Complaint on or about July 6, 2010. Plaintiff served Zuckerberg on July 8, 2010. Thus, this Notice of Removal is timely under 28 U.S.C. § 1446.

3. Upon information and belief, at the time of the commencement of this action, Plaintiff was, and still is, a citizen and resident of New York. See Exhibit 3, ¶ 1.

4. Defendant Facebook was at the time of the commencement of this action, and still is, a Delaware corporation with its principal place of business in Palo Alto, California. Although the attachments to Plaintiff's Complaint correctly identify Facebook as a Delaware corporation, the Complaint incorrectly identifies Facebook's principal place of business. Exhibit 3, ¶ 3.

5. Defendant Zuckerberg was at the time of the commencement of this action, and still is, a domiciliary and citizen of California. Plaintiff's Complaint states that Zuckerberg "resides" in New York. That is incorrect, as he resides in California. In addition, "[i]t is established beyond question that an allegation of a party's residence is not a sufficient allegation of his citizenship." Fisher v. United Airlines, Inc., 218 F. Supp. 223, 225 (S.D.N.Y. 1963) (citing Realty Holding Co. v. Donaldson, 268 U.S. 398, 399 (1925)); Exhibit 3, ¶ 2.

6. Complete diversity of citizenship under 28 U.S.C. § 1332 existed between the Plaintiff and Defendants at the time Plaintiff filed the Complaint, and has existed at all times from that date until the filing of this Notice of Removal.

7. Plaintiff seeks a declaratory judgment enforcing an alleged contract, an accounting, and monetary damages upon a purported right to certain ownership interests in

Facebook, Inc. Based on the allegations contained in Plaintiff's Complaint there is a reasonable probability that the amount in controversy in this action, exclusive of interests and costs, exceeds the sum of seventy-five thousand dollars, \$75,000 – although Defendants deny liability to the Plaintiff for any amount. This action is therefore one over which this Court has jurisdiction pursuant to 28 U.S.C. § 1441(a).

8. Defendants reserve the right to amend or supplement this Notice of Removal as may be appropriate.

9. Defendants reserve all defenses in this action.

10. Pursuant to the provisions of 28 U.S.C. § 1446, a true and correct copy of the Notice of Filing of Notice of Removal to the Supreme Court of the State of New York, County of Allegany is attached hereto as Exhibit 4.

11. Written notice of the filing of this Notice of Removal will be given to the Plaintiffs, and a copy of this Notice of Removal will be filed with the Clerk of the Supreme Court of the State of New York, County of Allegany as provided by 28 U.S.C. § 1446(d). A Certificate of Service is attached hereto as Exhibit 5.

Dated: July 8, 2010
New York, New York

ORRICK, HERRINGTON & SUTCLIFFE LLP

By: 

Lisa T. Simpson
Daniel W. Robertson, Jr.

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Attorneys for Defendants Mark Elliot
Zuckerberg and Facebook, Inc.

INDEX OF ATTACHED FILED DOCUMENTS

Exhibit Number	Description	Date Filed
1	Order to Show Cause	6/30/10
2	Summons	6/30/10
3	Verified Complaint	6/30/10